IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CIVIL WRIT No. 5134 of 2006

NARESH CHANDRA MATHUR & ANR.
V/S
RAJENDRA BOTHARA & ANR.

Mr. AK RAJVANSHY, for the appellant / petitioner

Mr. ARUN BHANSALI, for the respondent

Date of Order : 12.9.2007

HON'BLE SHRI N P GUPTA,J.

ORDER

Heard learned counsel for the parties. Though the matter comes up for admission after service of notice, however in view of the short question involved, at the request of the learned counsel for the parties, the writ itself is being finally disposed.

By the impugned order, the learned trial Court has dismissed the petitioner's application dated 24.9.2005, filed for taking on record the order of the Appellate Authority, dated 20.4.2000, setting aside the patta of Nav Bharat Grah Nirman Sahakari Samiti, and for producing the sale deed executed by Pukhraj in favour of his wife, Nikki.

The learned trial Court has found, that from the

judgment of R.A.A. dated 27.4.2000, it transpires that the parties in the present litigation are not parties there, and that Nikki is not a party in the litigation, and therefore, the registered document is not relevant to the litigation.

In my view, the order dated 27.4.2000, produced alongwith the application dated 24.9.2005 shows, that that is the order passed by the Revenue Appellate Authority, setting aside the order of conversion dated 21.7.1984, and remanding the matter. By this order dated 21.7.1984 the land conversion authority had ordered conversion of land, and that the original khatedar Prabhu Singh, in collusion with Nav Bharat Grah Nirman Sahakari Samiti, Jodhpur, wants to grab the land, of which he has no right, inasmuch as, land bearing Khasra No.799/1 fell to the share of Prabhu Singh, and the land bearing Khasra No.799/3 was of Shanker Lal Ganchha. This land of Khasra No.799/3 was purportedly sold in the name of Nav Bharat Grah Nirman Sahakari Samiti. In my view, since the plaintiffs claims to have purchased the plot from Nav Bharat Grah Nirman Sahakari Samiti, being plot No.29, and since the order sought to be produced relates to setting aside the conversion in favour of Nav Bharat Grah Nirman Sahakari Samiti, it cannot be said that the document is not relevant. True it is, that before this Court, the learned counsel for the plaintiff has produced copy of another order of the Revenue Appellate Authority

dated 8.12.2005, contending, that therein a stay has been granted, staying the operation of the order dated 27.4.2000. It is informed by learned counsel for the respondent, that an application under Order 41 Rule 21 was filed by the respondent, before the Revenue Appellate Authority, and therein the aforesaid order has been passed. In my view, it would be appropriate, that both the orders dated 27.4.2000 of the Revenue Appellate Authority, so also the order dated 8.12.2005, should be taken on record. So far as the sale deed is concerned, it is the defendant No.1, who has sold the property to Nikki Devi, the wife of the defendant No. 2, through power of attorney the defendant No.2. In such circumstances, unless an application comes under Order 22 Rule 10, that transaction is already effected by the doctrine of lis-pendence, and therefore, that document need not be taken on record.

In view of the aforesaid discussion, the writ petition is partly allowed, and while setting aside the impugned order, so far as it declines to take on record the order of the Revenue Appellate Authority dated 27.4.2000, it is directed, that the said order dated 27.4.2000, so also the order of the Revenue Appellate Authority, dated 8.12.2005, produced by the respondent before this Court, shall also be taken on record. Fresh certified copy of order dated 8.12.2005 be filed by the plaintiff in the trial court. The other part of the order, declining to take

on record, the sale deed, is however, maintained. The record of the learned trial Court be returned forthwith. The learned trial Court is also directed to decide the suit most expeditiously.

(N P GUPTA),J.

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